

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Planning
AGENDA DATE: August 23rd, 2005
CONTACT PERSON/PHONE: Rudy Valdez/4635
DISTRICT(S) AFFECTED: ALL

SUBJECT:
APPROVE a resolution

Discussion and action regarding a petition submitted by Ranchos Real IV, LTD requesting that the City of El Paso consent to the creation of the "Tierra Del Este " Municipal Utility District located within the City's East Extraterritorial Jurisdiction. The proposed municipal district contains a total of 2,019.731 acres.

BACKGROUND / DISCUSSION:

Ranchos Real IV submitted a petition on May 31, 2005 requesting that the City of El Paso consent to the creation of a municipal utility district for a property located in the east El Paso County Area (south of Montana and east of Zaragoza Road) containing 2,019 acres. The request is made pursuant to provisions of Chapters 49 and 54 of the Texas Water Code and Section 42.042 of the Texas Local Government Code for the purpose of providing water and wastewater, parks and fire protection to the subject area.

PRIOR COUNCIL ACTION:

Last item closely related was considered in 2002 by Council. Council approved the Paseos Del Este MUD subject to conditions.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

- DCC recommended to deny the request.
- CPC recommended to take no action until such time as the City Council makes a determination regarding annexation policy for the area and that such determination be made as expeditiously as possible.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

A RESOLUTION THAT THE CITY OF EL PASO CONSENT TO THE RANCHOS REAL IV, LTD. REQUEST FOR INCLUSION IN OR CREATION OF A CONSERVATION AND RECLAMATION DISTRICT UNDER EITHER CHAPTERS 51 AND/OR 54, TEXAS WATER CODE OR BY SPECIAL ACT OF THE TEXAS LEGISLATURE TO BE ENTITLED TIERRA DEL ESTE MUNICIPAL UTILITY DISTRICT, SUCH DISTRICT PROPOSED FOR LOCATION WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF EL PASO, TEXAS.

WHEREAS, Ranchos Real IV, LTD. ("Landowner") holds legal title to approximately 2,019.731 acres within the City of El Paso ("City") extraterritorial jurisdiction ("ETJ"); and

WHEREAS, Landowner submitted petition for City consent to allow inclusion in or create a conservation and reclamation district under either Chapters 51 and/or 54, Texas Water Code or by special act of the Texas Legislature proposed for naming as Tierra Del Este Municipal Utility District ("M.U.D."), such M.U.D. intended for the construction, acquisition, maintenance, and operation of a waterworks and sanitary sewer system for domestic and commercial purposes as well as to meet drainage, firefighting and park facilities needs in the area; and

WHEREAS, Landowner request, submitted herein as Exhibit "A," is made pursuant to provisions of Chapters 49 and 54 of the Texas Water Code and Section 42.042 of the Texas Local Government Code; and

WHEREAS, a resolution authorizing such consent to creation of a M.U.D. in the City's ETJ must be passed by the City Council prior to inclusion of such land in a district unless consent is later deemed to have been provided in consideration of circumstances as outlined in Chapter 54 of the Texas Water Code; and

WHEREAS, Council is of the determination that it is in the best interests of the citizenry that consent to creation be provided subject to certain conditions necessary to properly safeguard the consent herein granted.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

1. Pursuant to the provisions of the Texas Water Code and the Texas Local Government Code, and subject to the restrictions found in Section 2 below, the City of El Paso, Texas hereby consents to the inclusion of land in or creation of a conservation and reclamation district under either Chapters 51 and/or 54, Texas Water Code or by special act of the Texas Legislature ("M.U.D.") for certain lands in the City of El Paso's Extraterritorial Jurisdiction for the purpose of construction, acquisition,

maintenance, and operation of a waterworks and sanitary sewer system for domestic and commercial purposes as well as to meet drainage, firefighting and park facilities needs in the area, such lands more fully described in the attached metes and bounds descriptions identified in Exhibit "A."

2. This authorization for consent to creation of a M.U.D. in the area described in Exhibit "A" is given subject to the following restrictions and conditions:

- A. That all facilities to serve the land in the M.U.D. be constructed in accordance with plans and specifications which have been approved by the City of El Paso.
- B. The City shall have the right to inspect all facilities being constructed by the M.U.D..
- C. The M.U.D. shall not sell bonds for any purpose other than to finance the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:
 - i. provide a water supply for municipal uses, domestic uses and commercial purposes;
 - ii. collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state; and
 - iii. gather, conduct, divert and control local storm water or other local harmful excesses of water in the district and the payment of organization expenses, operation expenses during construction and interest during construction.
- D. The City shall have the right to review the M.U.D.'s bonds and notes prior to issuance and may place restrictions on the terms and provisions of each to the extent such restrictions and conditions do not generally render the bonds and notes of the M.U.D.'s in the El Paso extraterritorial jurisdiction unmarketable.

ADOPTED this ____ day of AUGUST, 2005.

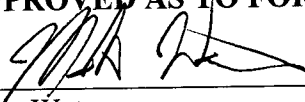
THE CITY OF EL PASO

John Cook,
Mayor

ATTEST:

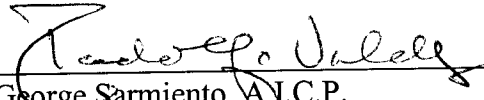
Richarda Momsen,
City Clerk

APPROVED AS TO FORM:



Matt Watson
Assistant City Attorney

APPROVED AS TO CONTENT:

for 
George Sarmiento, A.I.C.P.

Director of Planning

CITY CLERK DEPT.
05 MAY 31 PM 12:05

PETITION/REQUEST FOR CONSENT TO THE
CREATION OF OR INCLUSION OF LAND IN A
CONSERVATION AND RECLAMATION DISTRICT

THE STATE OF TEXAS §
 §
COUNTY OF EL PASO §

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF EL PASO,
TEXAS:

The undersigned (herein the "Landowner") holder of title to land within the territory hereinafter described by metes and bounds, constituting a majority in value of the holders of title of the lands therein as indicated by the tax rolls of El Paso County, Texas, and acting pursuant to the provisions of Chapters 49 and 54, Texas Water Code and Section 42.042, Texas Local Government Code, respectfully requests the City Council of the City of El Paso, Texas, for its written consent to the inclusion of land in, or the creation of, a conservation and reclamation district under either Chapters 51 and/or 54, Texas Water Code (the "Code Chapters") or by special act of the Texas Legislature (the "Act") and would respectfully show the following:

I.

The name of the proposed District shall be TIERRA DEL ESTE MUNICIPAL UTILITY DISTRICT or some similar name as required or permitted by law (the "District").

II.

The land shall be included within the District either by annexation or by creation and organization of the District as provided above. The District shall exist under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas, Chapters 49, 51, and/or 54, Texas Water Code, and/or the Act.

III.

The District shall contain an area of approximately 2,019.731 acres of land, more or less, situated wholly within El Paso County, Texas. All of the area within the District is within the extraterritorial jurisdiction of the City of El Paso, Texas. All of the territory proposed to be included may properly be included in the District. The area proposed to be within the District consists of seven tracts, which are described in Exhibit "A", which is attached hereto and incorporated herein for all purposes and are shown on the map attached hereto as Exhibit "B" and incorporated herein for all purposes.

EXHIBIT "A"

IV.

CITY CLERK DEPT.
05 MAY 31 PM 12:05

The undersigned is owner of title to land within the District and is the owner of a majority in value of the lands therein as indicated by the tax rolls in El Paso County, Texas. There are no residents on the land.

V.

The general nature of the work to be done by the District at the present time is the construction, acquisition, maintenance, and operation of a waterworks and sanitary sewer system for domestic and commercial purposes and of drainage, firefighting and park facilities and services.

VI.

There is, for the following reasons, a necessity for the above-described work: There is not now available within the area, which will be developed as a residential and commercial subdivision, an adequate waterworks and sanitary sewer system and drainage, firefighting and park facilities and services. The health and welfare of the present and future inhabitants of the area and of territories adjacent thereto require the construction, acquisition, maintenance, and operation of an adequate waterworks and sanitary sewer system and drainage, firefighting and park facilities and services. A public necessity therefore exists for the organization, extension, improvement, maintenance, and operation of such waterworks and sanitary sewer system and drainage, firefighting and park facilities and services so as to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

VII.

A preliminary investigation has been instituted to determine the cost of the project, and it is now estimated by the Landowner, from such information as it has at this time, that the ultimate costs of the development contemplated will be approximately \$74,000,000. The project will be financed by the issuance of bonds by the District.

VIII.

The Landowner requests that the City further consent to the division of the proposed District into, and the creation of, several different districts as permitted by Chapter 51, Texas Water Code, or as may be permitted by the Act after creation of the District.

WHEREFORE, the Landowner respectfully prays that this request be heard and that your Honorable Body duly pass and approve an ordinance or resolution granting the consent to the creation of the District and authorizing the inclusion of the land described herein with the District.

CITY CLERK DEPT.

05 MAY 31 PM 12:05

RESPECTFULLY SUBMITTED, this 21st day of April, 2005.

LANDOWNER:

RANCHOS REAL IV, LTD.

Ranchos Real IV, Ltd., owns
all of the land to be included in
the District

By: [Signature]
Name: Douglas Schumy
Title: Vice President
Date: 4.21.05

CONSENT TO AND JOINDER

Texas Pacific Land Trust, the owner of a lien upon the portions of the land described in the foregoing Petition/Request, does hereby consent to and join the Petition/Request in all respects.

LIENHOLDER:

TEXAS PACIFIC LAND TRUST

By: Roy Thomas
Name: Roy Thomas
Title: General Agent
Date: 4/20/05

**EXHIBIT A
PROPERTY DESCRIPTION**

CITY CLERK DEPT.
05 MAY 31 PM 12:05

The Property consists of seven tracts as follows:

Tract One:

Being a portion of Section 37, Block 79,
Township 2, Texas and Pacific Railroad Surveys
El Paso County, Texas
Prepared for: Southwest Land Development Services Inc.
July 20, 2004

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Section 37, Block 79, Township 2, Texas and Pacific Railroad Surveys El Paso County, Texas and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found 2" pipe with brass cap marked sect 37, 38, 47, 48;

Thence North 00°35'06" West between the common line of sections 37 and 38 a distance of 5236.86 feet to a found 2" pipe for the common corner of sections 35, 36, 37 & 38;

Thence North 89°58'06" East with the common line between section 37 and Hillcrest Estates a distance of 5313.88 feet to a found 2" pipe for the common corner of sections 36, 37, 7 & 18;

Thence South 00°35'30" East along the line between sections 37 and 18 a distance of 4736.94 feet to a set ½" rebar with cap marked TX 5152 on the northerly boundary line of Jobe Concrete Products Inc. property in Book 3084, Page 133, Deed records of El Paso County, Texas;

Thence along said boundary line South 89°58'09" West (S 89°56'40" W Book 3084, Page 133) a distance of 500.00 feet to a point on the westerly line of said Jobe Concrete Products property from which a found ½" rebar with cap marked TX 4680 bears N 08°42'03" W- 0.67';

Thence along said boundary line South 00°35'30" East (S 00°29'44" E Book 3084, Page 133) a distance of 500.00 feet to a set ½" rebar with cap marked TX 5152 on the line between sections 37 and 48;

Thence South 89°58'09" West along the line between sections 37 and 48 a distance of 4814.48 feet to the "TRUE POINT OF BEGINNING" and containing 633.12 acres of land more or less.

CITY CLERK DEPT.

05 MAY 31 PM 12:05

NOTE: Bearings Basis is True North for a Transverse Mercator Surface Projection as determined by GPS Methods based on a set ½" rebar with cap marked TX 5152 Latitude: 31°47'01.296"N Longitude: 106°14'58.705W

A Plat of even date accompanies this description.

Ron R. Conde
R.P.L.S. No. 5152

job#704-16 R.C.
LGL-04\70416.LGL

CITY CLERK DEPT.

Tract Two:

05 MAY 31 PM 12:06

Property description: All of Tract 5, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, El Paso County, Texas

METES AND BOUNDS DESCRIPTION

The parcel of land herein described is all of Tract 5, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, El Paso County, Texas, and is more particularly described by metes and bounds as follows:

COMMENCING at a T-Bar with EPNG brass found on the common boundary line between Sections 38 and 39, Block 79, Township 2, Texas & Pacific Railway Company Surveys, from which a 2" iron pipe in concrete found at the common corner of Sections 38, 39, 46 and 47, Block 79, Township 2, Texas & Pacific Railway Company Surveys bears South 00°30'31" East, a distance of 299.90 feet, said point being the **POINT OF BEGINNING** of this description;

THENCE, N 00°30'31" W, along said common boundary line, a distance of 3173.84 feet to a found T-Bar with EPNG brass cap on the southerly right-of-way line of Zaragosa Road [F.M. 659 (*deed dated March 10, 1936, recorded in Book 606, Page 507, Deed Records, El Paso County, Texas*)];

THENCE, N 42°33'48" E, along said boundary line, a distance of 1149.66 feet to a set 5/8" rebar with cap marked "RPLS 4178";

THENCE, S 40°37'29" E, a distance of 4703.80 feet to a found T-Bar with EPNG brass cap;

THENCE, S 00°28'20" E, a distance of 465.30 feet to a found T-Bar with EPNG brass cap;

THENCE, N 89°46'32" W, a distance of 3815.98 feet to the **POINT OF BEGINNING** of this description.

Said parcel of land contains 221.032 acres (9,628,155 square feet) of land more or less

CITY CLERK DEPT.

Tract Three:

05 MAY 31 PM 12:06

Property description: All of Tract 4, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, El Paso County, Texas

METES AND BOUNDS DESCRIPTION

The parcel of land herein described is all of Tract 4, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, El Paso County, Texas, and is more particularly described by metes and bounds as follows:

COMMENCING at a brass cap in concrete found at the common corner of Sections 35, 36, 37 and 38, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, from which a 2" iron pipe in concrete found at the common corner of Sections 34, 35, 38 and 39, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys bears North 89°58'13" West, a distance of 5312.88 feet, said point being the **POINT OF BEGINNING** of this description;

THENCE, South 00°32'27" East, along the common boundary line between Sections 37 and 38, a distance of 4894.09 feet to a found T-Bar;

THENCE, North 89°46'48" West, a distance of 839.84 feet to a found T-Bar with EPNG brass cap;

THENCE, North 00°33'24" West, a distance of 599.67 feet to a found T-Bar with EPNG brass cap;

THENCE, North 89°46'48" West, a distance of 659.70 feet to a set 5/8" rebar with cap marked "RPLS 4178";

THENCE, South 00°33'24" East, a distance of 77.62 feet to a found T-Bar with EPNG brass cap;

THENCE, North 40°37'15" West, a distance of 4623.41 feet to a 5/8" rebar with cap marked "RPLS 4178" set on the southerly right-of-way line of Zaragosa Road [F.M. 659 (*deed dated March 10, 1936, recorded in Book 606, Page 507, Deed Records, El Paso County, Texas*)];

THENCE, North 42°33'48" East, along said right-of-way line, a distance of 1165.83 feet to a chiseled "X" set on the common boundary line between Sections 35 and 38;

THENCE, South 89°58'13" East, along said boundary line, a distance of 3679.91 feet to the **POINT OF BEGINNING** of this description.

Said parcel of land contains 330.029 acres (14,376,082 square feet) of land more or less.

Tract Four:

CITY CLERK DEPT.

05 MAY 31 PM 12:06

Property description: All of Tract 6, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, El Paso County, Texas

METES AND BOUNDS DESCRIPTION

The parcel of land herein described is all of Tract 6, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, El Paso County, Texas, and is more particularly described by metes and bounds as follows:

COMMENCING at a 2" iron pipe in concrete found at the common corner of Sections 38, 39, 46 and 47, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, from which a 2" iron pipe in concrete found at the common corner of Sections 34, 35, 38 and 39, Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys bears North 00°30'31" West, a distance of 5235.75 feet, said point being the **POINT OF BEGINNING** of this description;

THENCE, North 00°30'31" West, along the common boundary line between Sections 38 and 39, a distance of 239.93 feet to a found T-Bar with EPNG brass cap;

THENCE, South 89°46'19" East, a distance of 5315.88 feet to a found T-Bar with EPNG brass cap on the common boundary line between Sections 37 and 38;

THENCE, South 00°32'27" East, a distance of 222.61 feet to a brass cap in concrete found at the common corner of Sections 37, 38, 47 and 48, Block 79, Township 2, Texas & Pacific Railway Company Surveys;

THENCE, North 89°57'31" West, along the common boundary line between Sections 38 and 47, a distance of 5315.81 feet to the **POINT OF BEGINNING** of this description.

Said parcel of land contains 28.221 acres (1,229,299 square feet) of land more or less

Tract Five:

CITY CLERK DEPT.

05 MAY 31 PM 12:06

Being a portion of Section 39, Block 79,
Township 2, Texas and Pacific Railroad Company Surveys
El Paso County, Texas
Prepared for: Edwards, Belk, Hunter, and Kerr
July 27, 2004
Parcel 4B

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Section 39, Block 79, Township 2, Texas and Pacific Railroad Company Surveys El Paso County, Texas and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found 1/2" rebar with cap marked TX 5152 set for the common corner of sections 38, 39, 46 and 47, Block 79, TSP 2, T & P RR. Surveys from this point a 2" pipe found for the common corner of sections 34, 35, 38 and 39 bears North 00°33'11" West a distance of 5235.75 feet, Thence from said 1/2" rebar South 89°57'37" West with the common line between sections 39 and 46 a distance of 2542.84 feet to a set 1/2" rebar with cap marked TX 5152;

Thence leaving said boundary line North 42°31'34" East a distance of 3722.85 feet to a set 1/2" rebar with cap marked TX 5152 on the line between sections 38 and 39;

Thence along said boundary line South 00°33'11" East a distance of 2741.99 feet to the "TRUE POINT OF BEGINNING" and containing 80.029 acres of land more or less.

NOTE: Bearings Basis is True North for a Transverse Mercator Surface Projection as determined by GPS Methods based on a set 1/2" rebar with cap marked TX 5152 Latitude: 31°47'01.296"N Longitude: 106°14'58.705W Height: 3928.22sft

A Plat of even date accompanys this description.

Ron R. Conde
R.P.L.S. No. 5152

job#704-46 R.C.
LGL-04\70446.LGL

Tract Six:

Being Tract 2A, Section 46, Block 79,
Township 2, Texas and Pacific Railroad Company Surveys
El Paso County, Texas
Prepared for: Foster Schwartz
June 15, 2000

CITY CLERK DEPT.
05 MAY 31 PM 12:06

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being Tract 2A, Section 46, Block 79, Township 2, Texas and Pacific Railroad Company Surveys, El Paso County, Texas and being more particularly described by metes and bounds as follows:

Commencing for reference at a found 2" pipe at the Northeasterly corner of Section 46, Block 79, Township 2, Texas and Pacific Railroad Company Surveys; Thence along the Easterly boundary line of said Section 46 South 00°33'12" East a distance 524.76 feet to a set 1/2" rebar with cap marked Tx 5152 for the "TRUE POINT OF BEGINNING";

Thence continuing along the Easterly boundary line of said Section 46, South 00°33'12" East a distance of 1048.28 feet to a set 1/2" rebar with cap marked Tx 5152 on the Southerly boundary line of Tract 2A, Section 46, Block 79, Township 2, Texas and Pacific Railroad Company Surveys;

Thence along said boundary line the following 3 courses:

1. North 90°00'00" West a distance of 4422.30 feet to a set 1/2" rebar with cap marked Tx 5152;
2. 185.59 feet along the arc of a curve to the right whose radius is 250.00 feet, whose interior angle is 42°32'00", whose chord bears North 68°44'00" West a distance of 181.35 feet to a set 1/2" rebar with cap marked Tx 5152;
3. North 47°28'00" West a distance of 20.86 feet (20.00 feet volume 780, page 1233 Deed Records of El Paso County, Texas) to a set 1/2" rebar with cap marked Tx 5152 on the Southeasterly right-of-way line of Zaragosa Road (100' R.O.W.);

Thence along said right-of-way line North 42°33'05" East a distance of 1314.51 feet (North 42°32'00" East – 1314.91 feet volume 780, page 1233, Deed Records of El Paso County, Texas) to a set 1/2" rebar with cap marked Tx 5152 on the Northerly boundary line of said Tract 2A;

Thence along said boundary line South 90°00'00" East a distance of 3707.61 feet to the "TRUE POINT OF BEGINNING" and containing in all 4,388,551.33 square feet or 100.75 acres of land more or less.

NOTE: Bearings based on found 2" pipes at Northeast and Southeast corners of Section 46, Block 79, Township 2, Texas and Pacific Railroad Company Surveys with bearing of South 00°33'12" East as per Deed in volume 780, page 1233, Deed Records of El Paso County, Texas

Job# 600-16R.C.
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Ron R. Conde
R.P.L.S. No. 5152

Tract Seven:

CITY CLERK DEPT.

05 MAY 31 PM 12:06

Being a portion of Section 47, Block 79,
Township 2, Texas and Pacific Railroad Surveys
El Paso County, Texas
Prepared for: Southwest Land Development Services Inc.
July 20, 2004

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Section 47, Block 79, Township 2, Texas and Pacific Railroad Surveys El Paso County, Texas and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found 2" pipe with brass cap marked sect 37,38,47,48, Thence South 00°34'52" East with the common line between sections 47 and 48 a distance of 4734.76 feet to a found ½" rebar with cap marked TX 4680 on the northerly boundary line of property to Jobe Concrete Products Inc. recorded in book 3084, page 133, deed records of El Paso County, Texas;

Thence along said boundary line South 89°59'32" West (S 89°55'06" W book 3084, page 133) a distance of 500.00 feet to a point on the westerly boundary line of said Jobe Concrete Products property from which a found ½" rebar with cap marked TX 4680 bears N 61°14'07" E - 0.18';

Thence along said boundary line South 00°34'52" East (S 00°29'10" E book 3084, page 133) a distance of 500.00 feet to a point on the line between sections 47 and 2 from which a found ½" rebar with cap marked TX 4680 bears S 08°02'47" W - 0.18';

Thence South 89°59'32" West along the line between section 47 and 2 a distance of 4716.17 feet to a set ½" rebar with cap marked TX 5152 on the easterly boundary line of an 100 foot El Paso Electric Company easement in book 3848, page 1070, Deed records of El Paso County, Texas;

Thence along said boundary line North 00°34'37" West (N 00°35'50" W Book 3848, Page 1070) a distance of 2853.01 feet to a set ½" rebar with cap marked TX 5152 on the northerly line of said El Paso Electric Company Easement;

Thence along said line North 89°58'26" West (N 89°59'39" W Book 3848, page 1070) a distance of 100.01 feet to a set ½" rebar with cap marked TX 5152 on the line between sections 46 and 47;

Thence North 00°34'37" West with the common line between sections 46 and 47 a distance of 2382.12 feet to a set ½" rebar with cap marked TX 5152 for the common corner of section 38,39,46 & 47;

CITY CLERK DEPT.

05 MAY 31 11:08
Thence North 89°59'49" East (N 89°57'31" E book 3661, page 718) along the line between sections 38 and 47 a distance of 5315.81 feet to a point;

Thence North 89°59'49" East (N 89°57'31" E Book 3661, Page 718) along the line between section 38 and 47 a distance of 5315.81 feet to the "TRUE POINT OF BEGINNING" and containing 626.55 acres of land more or less.

NOTE: Bearings Basis is True North for a Transverse Mercator Surface Projection as determined by GPS Methods based on a set 1/2" rebar with cap marked TX 5152 Latitude: 31°47'01.296"N Longitude: 106°14'58.705W

A Plat of even date accompanies this description.

Ron R. Conde
R.P.L.S. No. 5152

job#704-16 R.C.
LGL-04\70416.LGL

EXHIBIT "B"

TIERRA DEL ESTE DEVELOPMENT PLAN

CITY CLERK DEPT.
05 MAY 31 PM 12:05

TRACT 1
633.12 Ac.

TRACT 1, SECTION 37, BLOCK 79
TSP 2, T&P RR SURVEYS

TRACT 4
28.221 Ac.

TRACT 6, SECTION 38, BLOCK 79
TSP 2, T&P RR SURVEYS

TRACT 3
330.029 Ac.

TRACT 4, SECTION 38, BLOCK 79
TSP 2, T&P RR SURVEYS

TRACT 2
221.032 Ac.

TRACT 5, SECTION 38, BLOCK 79
TSP 2, T&P RR SURVEYS

TRACT 7
626.55 Ac.

SECTION 47, BLOCK 79
TSP 2, T&P RR SURVEYS

TRACT 5
80.029 Ac.

TRACT 5, SECTION 38, BLOCK 79
TSP 2, T&P RR SURVEYS

TRACT 6
100.75 Ac.

TRACT 6, SECTION 44, BLOCK 79
TSP 2, T&P RR SURVEYS



STAFF REPORT

<i>Type Request:</i>	Consent to Creation of a Municipal Utility District in El Paso's East Extraterritorial Jurisdiction
<i>Applicants:</i>	Ranchos Real IV, Ltd and the Texas Pacific Land Trust
<i>Representative:</i>	Conde, Inc.
<i>Acres:</i>	2,019.731 acres
<i>Location:</i>	South of Montana Avenue and East of Zaragoza Road.
<i>Planning Area:</i>	East El Paso Extraterritorial Jurisdiction (ETJ)
<i>Legal Description:</i>	Being all of Tracts 4, 5, 6 Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, portion of Section 39, Block 79, Township 2, Texas and Pacific Railroad Company Surveys and Tract 2A, Section 46, Block 79, Township 2, Texas and Pacific Railroad Company Surveys all within the County of El Paso.

CITY PLAN COMMISSION SPECIAL MEETING, JULY 28, 2005
1:30 P.M., COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL

ITEM #13

Request: Consent for the City of El Paso to permit the creation of a Municipal Utility District for certain lands in El Paso's East Extraterritorial Jurisdiction (ETJ) generally located south of Montana Avenue and east of Zaragoza Road containing 2,019.731 acres.

GENERAL INFORMATION:

Ranchos Real IV, Ltd and Texas Pacific Land Trust have petitioned the City of El Paso for its consent to permit the creation of Municipal Utility District (MUD) containing approximately 2,019.731 acres located in El Paso's East Extraterritorial Jurisdiction (ETJ). The petition was submitted to the City of El Paso on May 31, 2005. The petition must be presented to the Mayor and City Council no later than August 23, 2005. The request is made pursuant to provisions of Chapters 49 and 54 of the Texas Water Code and Section 42.042 of the Texas Local Government Code for the purpose of providing water, wastewater, parks and fire protection to the subject area (see attached copy of petition submitted by the applicant and portion of Chapter 42 of the Local Government Code regarding creation of a MUD).

INFORMATION TO THE COMMISSION:

A Municipal Utility District (MUD) can be generally defined as being almost like a school district, it is a governmental entity created under State law specifically Chapter 54 of the Texas Water Code. As a public entity, it can exercise certain governmental powers, including the levy and collection of property taxes, charging for authorized services, the issuance of bonds for water and sewer facilities, and the adoption and enforcement of rules and regulations as appropriate to accomplish the purposes for which the district was created.

State statute requires that the City respond within ninety days after receiving copy of the petition. Failure by the City to respond within the specified time period or denial of the petition by the City would then permit the applicants to petition the City to provide water and sewer service to the subject property. The applicants and the City would then have 120 days after the second petition is submitted to negotiate an agreement with regard to provision of services to the area. If the City refuses to give its consent to the creation of the MUD or refuses to execute a contract providing for the water and sewer services to the subject property within the 120 day period, the applicant may then petition the Texas Commission on Environmental Quality (TCEQ) for creation of the MUD (see copy of Chapter 42 Local Government Code)

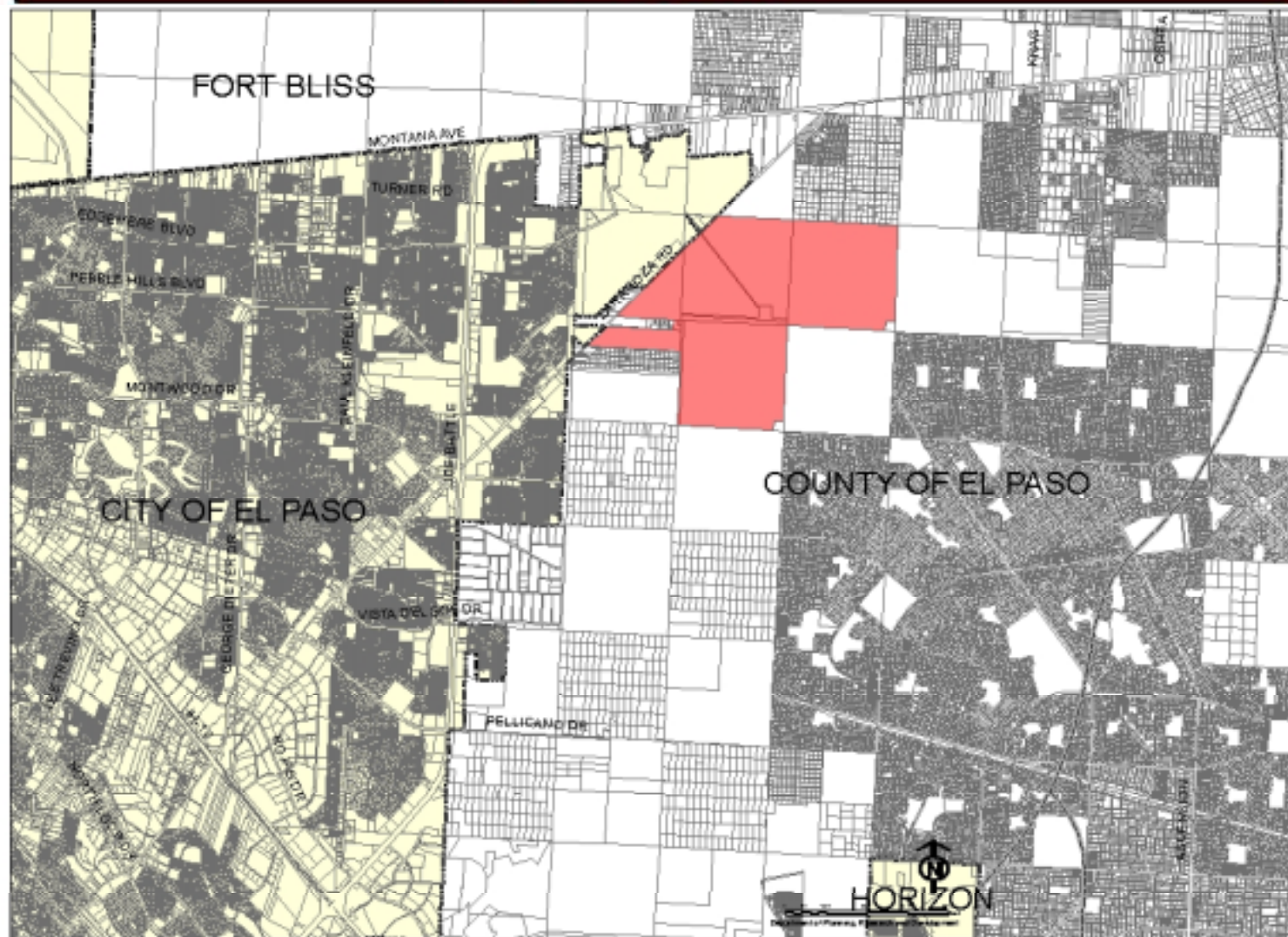
Recommendations:

The Development Coordinating Committee (DCC) on July 12, 2005 recommended ***DENIAL*** of the petition to create a Municipal Utility District as submitted by Ranchos Real IV LTD for the property described as being all of Tracts 4, 5, 6 Section 38, Block 79, Township 2, Texas & Pacific Railway Company Surveys, portion of Section 39, Block 79, Township 2, Texas and Pacific Railroad Company Surveys and Tract 2A, Section 46, Block 79, Township 2, Texas and Pacific Railroad Company Surveys all within the County of El Paso.

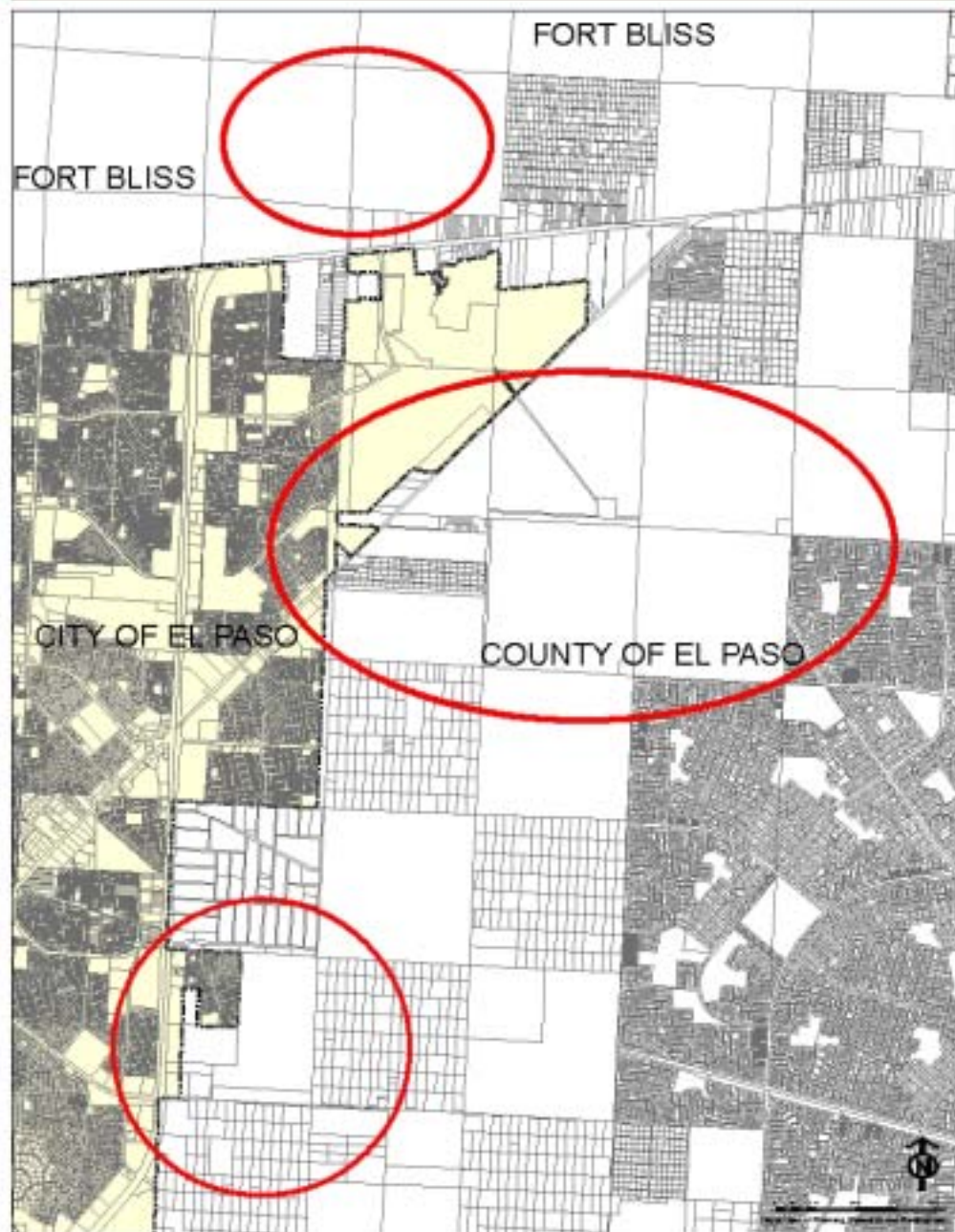
The DCC's recommendation was based on the following considerations:

- The City of El Paso is currently undertaking an annexation study for areas located in El Paso's East extraterritorial jurisdiction area. Until the study is complete and the City determines future growth policies, petitions for creation any MUD should be discouraged.
- Annexation would provide for better control of development through building code and zoning regulations.
- Creation of a MUD could preclude growth of El Paso east of its city limits.
- El Paso Water Utilities is opposed to the creation of the subject MUD, the study currently being undertaken by the City will set out the manner in which the El Paso Water Utilities may be able to serve the area with water and wastewater services. Annexation will allow for city control of vital water assets.

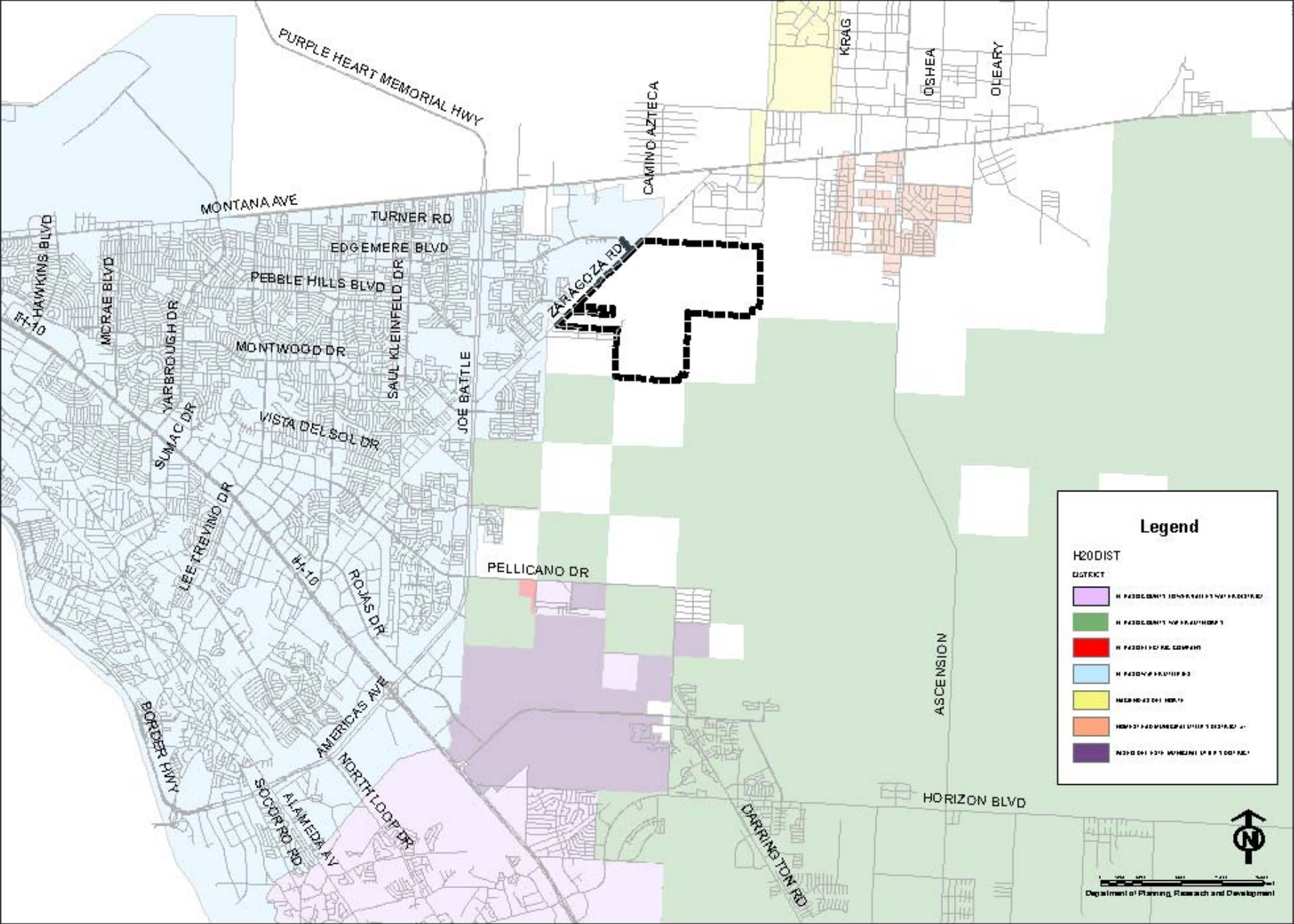
Municipal Utility District



Annexation



Municipal Utility District



MUNICIPAL UTILITY DISTRICT

WHAT IS A MUD?

- A governmental entity created under State Law – Chapter 54 of the Texas Water Code

WHAT IS A MUD'S MAIN PURPOSE?

- To provide water and sewer services, solid waste collection and providing parks and recreation

MUNICIPAL UTILITY DISTRICT

OVERVIEW OF MUD PROPOSAL

- Petition submitted on May 31, 2005
- City has 90 days following receipt of petition to respond
- Action by City Council should occur no later than August 29, 2005

MUNICIPAL UTILITY DISTRICT

OPTIONS AVAILABLE TO CITY

- **Approve the request with no conditions**
- **Approve the request with conditions**
- **Deny or take no action on request**

ACTIONS AFTER DENIAL OR NO ACTION

- **Applicant may submit new petition requesting water and sewer service under mutually agreed contract**
- **City has 120 days to negotiate a contract**
- **At end of 120 day period applicant may petition TCEQ for creation of the MUD if no agreement is reached**

MUNICIPAL UTILITY DISTRICT

CONDITIONS IN GRANTING CONSENT TO CREATE MUD

- ALL FACILITIES TO SERVE DISTRICT TO BE CONSTRUCTED IN ACCORDANCE WITH PLANS AND SPECIFICATIONS WHICH HAVE BEEN APPROVED BY THE CITY.
- CITY SHALL HAVE THE RIGHT TO INSPECT CONSTRUCTION OF FACILITIES BY DISTRICT
- PURPOSES FOR WHICH THE DISTRICT MAY ISSUE BONDS TO THE PURCHASE, CONSTRUCTION, ACQUISITION, REPAIR, EXTENSION AND IMPROVEMENT OF LAND, EASEMENTS, WORKS, IMPROVEMENTS, FACILITIES, PLANTS, EQUIPMENT AND APPLICANCES IS RESTRICTED TO THE FOLLOWING
 - PROVIDE A WATER SUPPLY FOR MUNICIPAL USES, DOMESTIC USES AND COMMERCIAL PURPOSES
 - COLLECT, TRANSPORT, PROCESS, DISPOSE OF AND CONTROL ALL DOMESTIC, INDUSTRIAL OR COMMUNAL WASTES WHETHER IN FLUID, SOLID OR COMPOSITE STATE
 - GATHER, CONDUCT, DIVERT AND CONTROL LOCAL STORM WATER OR OTHER LOCAL HARMFUL EXCESSES OF WATER IN THE DISTRICT AND THE PAYMENT OF ORGANIZATION EXPENSES, OPERATION EXPENSES DURING CONSTRUCTION AND INTEREST DURING CONSTRUCTION
- CITY SHALL REVIEW THE DISTRICT'S BONDS AND NOTES PRIOR TO ISSUANCE AND MAY PLACE RESTRICTIONS ON THE TERMS AND PROVISIONS OF EACH OF THE DISTRICT'S BONDS AND NOTES ISSUED TO PROVIDE SERVICE TO THE LAND